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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/073,452	05/06/1998	RICHARD A. LANG		9785

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EXAMINER

CHEVALIER, ROBERT

ART UNIT PAPER NUMBER

2621

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/073,452

Applicant(s)

LANG ET AL.

Examiner

Bob Chevalier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 1998 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Claims 1-2, 6-7, 15, 18-23, and 26-30, are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al (P.N. 5,371,551) in view of Mankovitz (P.N. 5,541,738).

Logan et al discloses a time delayed digital video system that shows substantially the same limitations recited in claim 1, the Logan et al's apparatus using concurrent recording and playback having video input means (12 of Fig. 1) for simultaneously

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receiving more than one broadcast video/audio program from one or more sources, cyclic buffer means (5 of Fig. 1) for storing said programs as program data in a cyclical fashion wherein upon being filled, said cyclic buffers begin replacing the oldest data with the newest of said data and is operable for simultaneously reading and writing of said data; and viewing playback means (11 of Fig. 1 ) for providing playback control of said data independent from the storing of said programs whereby the time-shifted viewing is delayed viewing of one or more programs in progress and may be initiated and controlled simultaneously with said storing of said programs as recited in claims 1 and 6.

Logan et al fails to specifically disclose the feature of the audio/video programs being associated with data about the programs, the data about the programs being provided over a network connection as specified in the present claims 1, and 6.

Mankovitz discloses a video/audio programs recording/reproducing apparatus that shows the feature of the audio/video programs being associated with data about the programs, the data about the programs being provided over a network connection as specified in the present claims 1, and 6. Applicant's attention is directed to the receiving of program guide data over the network connection shown in Mankovitz's Figure 1, components 63, and 64, it is noted that the program guide data is in association with audio/video programs recorded on the storage medium of Mankovitz.

It would have been obvious to one skilled in the art to modify the Logan et al's apparatus wherein the receiving means provided thereof would incorporate the capability of receiving program data corresponding to the audio/video programs

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recorded in the storage medium in the same conventional manner as shown by Mankovitz. The motivation is to better understand the audio/video programs recorded in the storage medium as suggested by Mankovitz.

With regard to claims 2, and 7, the feature of the archive means (column 3, lines 34-45) for semi-permanent storage of the program data and wherein the archive means is used as a save function for selective retrieval, playback and control of program data as recited thereof is present in the proposed combination indicated above. (See Logan et al's column 3, lines 34-45) in claims 2 and 7: viewer playback control capture means

With regard to claims 15, and 23, the feature of playback control comprises random access playback, stop, pause, rewind and fast-forward function as specified thereof is present in the proposed combination indicated above. (See Logan et al's columns 5-6).

With regard to claims 18-19, and 26-27, the feature of the one or more time-shifted viewing settings specified thereof is present in the proposed combination indicated above. (See Logan et al's column 6, lines 33-34).

With regard to claims 20-22, and 28-30, the feature of the data about the programs comprises plot summary data, rating data and cast data as specified thereof would be inherently present in the proposed combination of Logan et al and Mankovitz. Because, Mankovitz discloses that the program guide information includes background information.

5. Claims 16-17, and 24-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al and Mankovitz as applied to claim 15 above, and further in view of Yuen et al (P.N. 5488,409).

The proposed combination of Logan et al and Mankovitz indicated above discloses a video recording/reproducing that shows substantially the same limitations recited in claim 16-17, and 24-25 including the feature of the playback control as specified in the present claims 16-17, and 24-25. (See the Above rejection of claim 15).

The proposed combination fails to specifically disclose the feature of capturing the playback control as viewing habit data and storing the viewing habit as specified in the present claims 16-17, and 24-25.

Yuen et al discloses a video recording/reproducing apparatus which includes the feature of capturing the playback control as viewing habit data and storing the viewing habit as specified in the present claims 16-17, and 24-25. (See Yuen et al's claim 7).

It would have been obvious to one skilled in the art to modify the proposed combination of Logan et al and Mankovitz indicated above wherein the reproducing/control means provided thereof would incorporate the capability of capturing the playback control as viewing habit data and storing the viewing habit in the same conventional manner as is shown by Yuen et al. The motivation is to have a better control over the apparatus during playback operation as suggested by Yuen et al.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bob Chevalier whose telephone number is 571-272-7374. The examiner can normally be reached on MM-F (9:00-6:30), second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

B. Chevalier  
July 26, 2006.

  
ROBERT CHEVALIER  
PRIMARY EXAMINER